PROCLAMATION 213 OF 2024

by the
PRESIDENT of the REPUBLIC of SOUTH AFRICA

2024

SPECIAL INVESTIGATING UNITS AND SPECIAL TRIBUNALS ACT, 1996 (ACT NO. 74 OF 1996): REFERRAL OF MATTERS TO EXISTING SPECIAL INVESTIGATING UNIT: MAHIKENG LOCAL MUNICIPALITY

WHEREAS allegations as contemplated in section 2(2) of the Special Investigating Units and Special Tribunals Act, 1996 (Act No. 74 of 1996) (hereinafter referred to as the "Act"), have been made in respect of the affairs of the Mahikeng Local Municipality (hereinafter referred to as "the Mahikeng Municipality");

AND WHEREAS the Mahikeng Municipality or the State suffered losses that may be recovered;

AND WHEREAS I deem it necessary that the said allegations should be investigated and civil proceedings emanating from such investigation should be adjudicated upon;

NOW, THEREFORE, I hereby, under section 2(1) of the Act, refer the matters mentioned in the Schedule, in respect of the Mahikeng Municipality, for investigation to the Special Investigating Unit established by Proclamation No. R. 118 of 31 July 2001 and determine that, for the purposes of the investigation of the matters, the terms of reference of the Special Investigating Unit are to investigate as contemplated in the Act, any alleged—

(a) serious maladministration in connection with the affairs of the Mahikeng Municipality;
(b) improper or unlawful conduct by the employees or officials of the Mahikeng Municipality;
(c) unlawful appropriation or expenditure of public money or property;
(d) unlawful, irregular or unapproved acquisitive act, transaction, measure or practice having a bearing upon State property;
(e) intentional or negligent loss of public money or damage to public property;
(f) offence referred to in Parts 1 to 4, or section 17, 20 or 21 (in so far as it relates to the aforementioned offences) of Chapter 2 of the Prevention and Combating of Corrupt Activities Act, 2004 (Act No. 12 of 2004), and which offences were committed in connection with the affairs of the Mahikeng Municipality; or
(g) unlawful or improper conduct by any person, which has caused or may cause serious harm to the interests of the public or any category thereof,

which took place between 1 November 2015 and the date of publication of this Proclamation or which took place prior to 1 November 2015 or after the date of publication of this Proclamation, but is relevant to, connected with, incidental or ancillary to the matters mentioned in the Schedule or involve the same persons, entities or contracts investigated under authority of this Proclamation, and to exercise or perform all the functions and powers assigned to or conferred upon the said Special Investigating Unit by the Act, including the recovery of any losses suffered by the Mahikeng Municipality or the State, in relation to the said matters in the Schedule.

Given under my Hand and the Seal of the Republic of South Africa at Pretoria this 25th day of October Two thousand and twenty-four.

CM Ramaphosa

President

By Order of the President-in-Cabinet:

T Simelane
Minister of the Cabinet

SCHEDULE

1. The procurement of, or contracting for, goods and services in respect of—

(a) Lease Agreement SCM/MLM17(A)/12/2015 dated 15 December 2015; and

(b) Full Maintenance Lease Agreement SCM/MLM17(B)12/2015 dated 23 February 2016,

by or on behalf of the Mahikeng Municipality, and payments made in respect thereof in a manner that was—

(i) not fair, competitive, transparent, equitable or cost-effective;

(ii) contrary to applicable—

(aa) legislation;

(bb) manuals, guidelines, practice notes, circulars or instructions issued by the National Treasury or the relevant Provincial Treasury; or

(cc) manuals, policies, procedures, prescripts, instructions or practices of, or applicable to, the Mahikeng Municipality;

(iii) conducted by, or facilitated through, the unlawful, irregular or improper intervention of employees or officials of the Mahikeng Municipality; or

(iv) fraudulent,

and any related unauthorised, irregular or fruitless and wasteful expenditure incurred by the Mahikeng Municipality or the State as a result thereof.

2. Any unlawful or improper conduct by employees or officials of the Mahikeng Municipality or the service provider in question, their employees or any other person or entity, relating to the allegations set out in paragraph 1 of this Schedule.

PROKLAMASIE KENNISGEWING 213 VAN 2024

van die
PRESIDENT van die REPUBLIEK van SUID-AFRIKA
2024

WET OP SPESIALE ONDERSOEKEENHEDE EN SPESIALE TRIBUNALE, 1996 (WET NO. 74 VAN 1996): VERWYSING VAN AANGELEENTHEDE NA BESTAANDE SPESIALE ONDERSOEKEENHEID: MAHIKENG PLAASLIKE MUNISIPALITEIT

AANGESIEN bewerings soos beoog in artikel 2(2) van die Wet op Spesiale Ondersoekeenhede en Spesiale Tribunale, 1996 (Wet No. 74 van 1996) (hierna na verwys as die "Wet"), gemaak is in verband met die aangeleenthede van die Mahikeng Plaaslike Munisipaliteit (hierna na verwys as "die Mahikeng Munisipaliteit");

EN AANGESIEN die Mahikeng Munisipaliteit of die Staat verliese gely het wat verhaal kan word;

EN AANGESIEN ek dit nodig ag dat gemelde bewerings ondersoek en siviele geskille voortspruitend uit sodanige ondersoek bereg moet word;
NOU, DERHALWE verwys ek hierby, kragtens artikel 2(1) van die Wet, die aangeleenthede in die Bylae vermeld, ten opsigte van die Mahikeng Munisipaliteit, vir ondersoek na die Spesiale Ondersoekeenheid ingestel by Proklamasie No. R. 118 van 31 Julie 2001 en bepaal dat, vir die doeleindes van die ondersoek van die aangeleenthede, die opdrag van die Spesiale Ondersoekeenheid is om soos beoog in gemelde Wet, ondersoek te doen na enige beweerde—

(a) ernstige wanadministrasie in verband met die aangeleenthede van die Mahikeng Munisipaliteit;
(b) onbehoorlike of onregmatige optrede deur werknemers of beamptes van die Mahikeng Munisipaliteit;
(c) onregmatige bewilliging of besteding van publieke geld of eiendom;
(d) onwettige, onreëlmatige of nie-goedgekeurde verkrygende handeling, transaksie, maatreël of praktyk wat op Staatseiendom betrekking het;
(e) opsetlike of nalatige verlies van publieke geld of skade aan publieke eiendom;
(f) misdryf bedoel in Dele 1 tot 4, of artikel 17, 20 of 21 (vir sover dit op voornoemde misdrywe betrekking het) van Hoofstuk 2 van die Wet op die Voorkoming en Bestryding van Korrupte Bedrywighede, 2004 (Wet No. 12 van 2004), en welke misdrywe gepleeg is in verband met die sake van die Mahikeng Munisipaliteit; of
(g) onwettige of onbehoorlike optrede deur enige persoon wat ernstige benadeling vir die belange van die publiek of enige kategorie daarvan veroorsaak het of kan veroorsaak,

wat plaasgevind het tussen 1 November 2015 en die datum van publikasie van hierdie Proklamasie of wat plaasgevind het voor 1 November 2015 of na die datum van publikasie van hierdie Proklamasie, wat relevant is tot, verband hou met, insidenteel of bykomstig is tot, die aangeleenthede vermeld in die Bylae of wat dieselfde persone, entiteite of kontrakte betrek wat ondersoek word kragtens die volmag verleen deur hierdie Proklamasie, en om al die werksaamhede en bevoegdhede wat deur die Wet aan die gemelde Spesiale Ondersoekeenheid toegewys of opgedra is, uit te oefen of te verrig in verband met die genoemde aangeleenthede in die Bylae, insluitend die verhaal van enige verliese wat deur die Mahikeng Munisipaliteit of die Staat gely is.

Gegee onder my Hand en die Seël van die Republiek van Suid-Afrika te Pretoria op hede die 25de dag van Oktober Tweeduisend vier-en-twintig.

CM Ramaphosa
President

Op las van die President-in-Kabinet:

T Simelane
Minister van die Kabinet

BYLAE

1. Die verkryging van, of kontraktering vir, goedere en dienste ten opsigte van—
(a) Huur Ooreenkoms SCM/MLM17(A)/12/2015 gedateer 15 Desember 2015; en
(b) Volle Instandhouding Huur Ooreenkoms SCM/MLM17(B)12/2015 gedateer 23 Februarie 2016,

deur of namens die Mahikeng Munisipaliteit, en betalings wat ten opsigte daarvan gemaak is op 'n wyse wat—
- (i) nie regverdig, mededingend, deursigtig, gelykbaar of koste-effektief is nie;
- (ii) teenstrydig met toepaslike—
  - *(aa)* wetgewing;
  - *(bb)* handleidings, riglyne, praktyk notas, omsendskrywes en instruksies uitgereik deur die Nasionale Tesourie of die betrokke Provinsiale Tesourie; of
  - *(cc)* handleidings, beleid, prosedures, voorskrifte, instruksies of gebruike van, of van toepassing op, die Mahikeng Munisipaliteit;
- (iii) verrig deur, of gefasiliteer deur, die onregmatige, onreëlmatige of onbehoorlike tussenkoms van werknemers of beamptes van die Mahikeng Munisipaliteit; of
- (iv) bedrieglik,

en enige verwante ongemagtigde, onreëlmatige of vrugtelose en verkwiste uitgawes aangegaan deur die Mahikeng Munisipaliteit of die Staat as gevolg daarvan.

2. Enige onwettige of onbehoorlike optrede deur werknemers of beamptes van die Mahikeng Munisipaliteit of die betrokke diensverskaffer, hulle werknemers of enige ander persoon of entiteit, ten opsigte van die bewerings uiteengesit in paragraaf 1 van hierdie Bylae.